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June 11, 2019

VIA ECF

Honorable Joel Schneider
United States Magistrate Judge
U.S. District Court - District of New Jersey
Mitchell S. Cohen Building & US Courthouse
1 John F. Gerry Plaza, Courtroom 3C
4th and Cooper Streets
Camden, NJ 08101

Re: IN RE: VALSARTAN N-NITROSODIMETHYLAMINE (NDMA) PRODUCTS
LIABILITY LITIGATION
Civil No. 19-2875 (RBK/JS)

Dear Judge Schneider:

Please accept this letter on behalf of the Plaintiffs in advance of the June 12, 2019 discovery status conference. The items are listed in the order of the agenda agreed to by the parties.

1. Discovery Confidentiality Order

Following the May 29, 2019 hearing Plaintiffs have been awaiting Defendants' revisions to the DCO per the Court's rulings.

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2. Core Discovery

Plaintiffs await the core discovery productions from the Defendants. Plaintiffs have attempted to confirm with the defense that the productions will comply with the ESI protocol to avoid re-production in the future, without success. The defense has indicated its intention to provide simple PDF documents with bates stamps, however this is not adequate. As communicated to the defense, there are important functional issues with the use of the documents if produced as proposed by the defense, for example in the ANDA there will be excel files which will be basically useless if produced in PDF. Further, much of the indexing and formatting for the ANDA under the FDA's eCTD format will be lost without full production of the appropriate metadata. The designation of this initial production from the defense as core discovery should not operate to penalize the plaintiffs with an inadequate production format. Without going much deeper, plaintiffs need assurance that the productions will be made in compliance with the ESI protocol either in the first instance, or in the near future thereafter, so the plaintiffs will have the full scope of information and functionality assured by the ESI protocol.

3. Master Complaints

Plaintiffs will be filing the Master Complaints as ordered.

4. Short Form Complaints

Plaintiffs have served a proposed form of Short Form Complaint on the defense and await a response.

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5. Insurance Information

Defendants' production of insurance information is deficient. The deficiencies include:

- a) ZHP provided no disclosure.
- b) Teva provided no disclosure other than to advise that the insurance is activated at a level so high that there is no need to disclose to Plaintiffs, which is not compliant with the Order.
- c) No disclosure was made by Torrent or Hetero to date.
- d) Clarification is needed regarding the Aurobindo insurance disclosure, is that the United States entity only?
- e) No reservation of rights letters were provided, nor was there a statement by each entity that no such letters exist.
- f) Finally, plaintiffs believe that a meet and confer would be helpful to discuss the mechanics of the disclosed insurance coverage, and the extent of coverage that may have existed in the past which may be applicable (i.e. any occurrence based policies, tails, etc.).

6. Streamlined Service Protocol

The parties have finalized the streamlined service protocol, and are prepared to submit to the Court for entry.

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7. Plaintiff Fact Sheets

The parties have not discussed Plaintiff Fact Sheets to date. Plaintiffs are working with the Benicar form of PFS to modify to fit the facts of this litigation.

8. ESI Protocol

The ESI Protocol has been finalized and the parties are prepared to submit to the Court for entry.

9. Stipulation for Dismissal of Peripheral and Minor Defendants

Plaintiffs have served a proposed Stipulation on the defense and await a response.

10. Document Repositories

As noted in the streamlined service protocol, plaintiffs have retained the services of Brown Greer to act as a document repository for Plaintiff Facts Sheets and related documents being produced by plaintiffs to defendants. Plaintiffs have retained the services of Disco to act as a document repository/review platform for all documents produced to plaintiffs by defendants and third parties in this litigation.

11. Coordination of State Cases

Plaintiffs have agreed to discuss a form of order for coordination with cases filed in the New Jersey Superior Court.

12. Inclusion of Losartan and Irbesartan

Plaintiffs intend to file an application with the JPML in the next month or so, and have asked the defense if they intend to oppose – with the hope that the defense will agree to a joint application to fold the additional sartans into this MDL.

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Thank you for Your Honor's courtesies and consideration.

Respectfully,



ADAM M. SLATER

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